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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Sibet, Krishnan, Najim, and Hache :
Application No. 10/698,183 :
Filed: October 31, 2003 :
Attorney Docket No. A01460 :
For: METHOD FOR BRIGHTENING VIRGIN
MECHANICAL PULP

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed March 4, 2004.

The petition under 37 CFR 1.47(a) is **dismissed**.

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on October 31, 2003, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on February 4, 2004, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee,
- (4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the statement as to the alleged refusal of inventor Hache to join the application is not acceptable because it is offered by a person who lacks first-hand knowledge of the refusal. Section 409.03(d) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

[w]here a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

The statement relative to inventor Hache's alleged constructive refusal to join application is authored by Mr. Kenneth Crimaldi, but the application papers were sent to Mr. Hache by Ms. Knauth. Further, according to the petition, Ms. Knauth was the person to whom Mr. Hache made all of his, apparently, evasive statements. In order for a statement relative to Mr. Hache's alleged constructive refusal to join the prosecution of the application, the statement must come from Ms. Knauth. A statement offered by Ms. Knauth should accompany any renewed petition filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents,
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (703) 305-0010.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions